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REMARKS

Claim Rejections:

35 U.S.C. 102

The Examiner rejected claims 1-6 and 9-11 under 35 U.S.C. 102 as being anticipated by Keiding. For the following reasons, the applicant respectfully disagrees.

Keiding teaches a cup formed from molded pulp. Keiding recites:

a reticulated mold, internally subject to vacuum, is inserted in a pulp bath, and the flow of liquid through the mold causes pulp to be deposited thereon to build up a blank on the surface of the mold. This blank is dried enough to be self supporting. While it still retains a large portion of its free water the blank is subjected compression which is internally directed upon a supporting mandrel and is so conducted that the blank is not permitted to expand under pressure. If desired the pulp of the blank may be drawn slightly over the mandrel so as to displace a certain amount of pulp toward the margin of the blank.

*See column 1, lines 33-46.* As understood by the applicant, the Keiding blank is in the general shape of the to be molded cup and a die is subsequently utilized to further compress and mold the features of the cup. Further, the Keiding blank retains "a large portion of its free water". The large portion of water permits the pulp of the Keiding blank to flow when compression molded.

Claim 1 (as amended) requires that the container be formed from "a single substantially flat blank" comprised substantially of a paperboard material. Nowhere in Keiding is it taught or suggested to use a substantially flat blank. Further, there is nothing in Keiding to motivate the use of a flat blank. For at least this reason, claim 1 (as amended) and dependant claims 2-6 and

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9-11 are not anticipated by Keiding and are believed to be in a condition of allowance over Keiding.

Additionally, the substantially flat blank specified in claim 1 (as amended) must be substantially comprised of a paperboard material. As understood in the art, paperboard comprises a relatively stiff board that is comprised of paper that is typically thicker than a paper sheet and has a relatively low moisture content. For instance, a preferred paperboard blank, according to one embodiment of the invention, only has a moisture content of 4.5-6.5%. No paperboard material is utilized in Keiding. The Keiding blank is comprised of a deposited pulp slurry that is in the general shape of a cup. As discussed above, applying compressive forces to the Keiding "blank" causes it to flow because of the high water content. This blank of a slurry deposited pulp is not "paperboard" because (i) it is still flowable and therefore not very stiff, and (ii) it has a relatively high moisture content necessary to impart the ability of the pulp in the blank to flow.

### 35 U.S.C. 103

The Examiner rejected claims 1-10 12, and 16 under 35 U.S.C. 103 as being unpatentable over Newman in view of Keiding. The Examiner also rejected claims 1-8, 12 and 16 as being unpatentable over Petitto in view of Keiding. Further, claims 1-12 were rejected under 35 U.S.C. 103 as being unpatentable over Keiding in view of Sorensen. Finally, claim 16 was rejected under 35 U.S.C. 103 in view of Keiding alone.

Newman teaches a plastic container and is relied upon for teaching the inwardly and outwardly projecting bulges in rejecting claim 1. Newman, however, teaches that the container be fabricated of a plastic material and does not disclose the use of a paperboard material. Keiding is combined with Newman for its teaching of the paperboard material.

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However, in order to make a prima facie case of obvious there must be a reasonable expectation of success that the combined references would result in the claimed article. Concerning the teachings of Newman and Keiding, there is no teaching or suggestion on how a container having the characteristics of Newman could be produced from a "substantially flat blank" substantially comprised of paperboard as required in claim 1 (as amended). More specifically, there are no teachings in either reference that would indicate how the inwardly and outwardly projecting bulges would be formed in a container formed from a flat paperboard blank.

Like the combination of Newman with Keiding, the combination of Petitto with Keiding also fails for failing to provide a reasonable expectation of success. Nowhere in either reference is there a teaching or a suggestion on how a container having the features of Petitto be formed from the "substantially flat blank" of claim 1 (as amended).

Sorenson, which was relied upon to reject claims 1-12 in combination with Keiding, teaches a plastic container having inside and outside ribs. Like the other references, Sorenson does not teach a "substantially flat blank" substantially comprised of a paperboard material. Accordingly, for at least the same reasons given above for Newman and Petitto in combination with Keiding, Keiding in combination with Sorenson fails to render claim 1 (as amended) obvious.

It is further appreciated that because neither Petitto, Newman nor Sorenson teach a "substantially flat blank" that is substantially comprised of paperboard, each of their combinations with Keiding fails to present a prima facie case of obvious for the additional reason that all of the elements of claim 1 (as amended) are not taught, suggested or motivated by the combined references. Accordingly, for at least this additional reason, claim 1 (as amended) is

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believed to be allowable over the combinations of either Newman, Petitto or Sorenson with Keiding.

### The New Claims

New claim 17 recites a container including inwardly and outwardly extending bulges that are formed from paperboard, wherein the container is formed from a substantially flat blank. A bottom edge of the inwardly extending bulge must be located substantially the same vertical distance from the bottom side of the container as a bottom edge of the outwardly extending bulge is located from the bottom side. None of the relied upon references teach such a configuration. For instance, the bottom edge of the inwardly-extending bulges of Sorenson are located the same vertical distance from the top edges of the outwardly-extending bulges. In Petitto, there are no inwardly extending bulges rather only outwardly-extending bulges (see Fig. 1). Further, claim 17 requires the bulges to extend from a downwardly-convergent sidewall and the outwardly-extending bulges of Petitto extend from a substantially vertical sidewall portion. Concerning Newman, the Examiner identifies shoulder 11 as the inwardly-extending bulge and rib 10 as the outwardly extending bulge. As can be appreciated, the bottom edge of the ledge 11 is above the bottom edge of the rib 10. Finally, in Keiding, the inwardly extending bulge is located vertically above the inwardly extending bulge 2.

Claim 17 is further distinguished over the relied upon art for the same reasons given above concerning the rejection of claim 1, i.e. none of the references teach a flat blank nor do the references when combined provide any reasonable expectation that a cup with the recited bulges could be formed from a flat paperboard blank.

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Claim 18, which is dependant on claim 1, is further distinguished over the relied upon art in that the continuous sidewall recited in the claim must comprise a plurality of pleats created by folds in the blank. None of the references relied upon teach, suggest or motivate a container with pleats. Further, it would not be obvious to combine the teachings of anyone of the relied upon references with a reference that discloses a container with a pleated smooth side wall, since there would be little expectation of success that a container that read upon the claimed container could be produced using the teachings of any of the relied upon references. Specifically, there are no teachings or suggestions in the references concerning how one would produce a paperboard pleated container with inwardly and outwardly extending bulges. There are certainly no indications in the references that forming bulges of the type recited in the claims in paperboard pleated containers is known in the art. It is to be appreciated that it would be impermissible hindsight to rely upon the teachings of the application to support the combination of several references to indicate the likelihood of success of such a combination to produce the container of claim 18.

Claim 19, which is also dependant on claim 1, recites a sidewall having pleats formed from a blank having a plurality of score-lines. Claim 19 is believed to be allowable over the relied upon references for all the reasons given above for claims 1 and 18. Additionally, none of the references teach, suggest or motivate the use of a pleated substantially flat blank substantially comprised of paperboard as is required by the claim.

Claims 20 and 21 are both dependant on claim 17 and are allowable for all of the same reasons as given for dependant claims 18 and 19 respectively.


Since there are no other objections or rejections of the application, it is felt it is now in condition for allowance and such action is courteously requested.

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Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Dated this 12<sup>th</sup> day of August, 2002.

Respectfully submitted,

  
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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the claims:**

Claim 1 has been amended as follows:

1. (Thrice Amended) A nestable [press formed] container [made at least partially of paperboard material] having a continuous sidewall with inner and outer surfaces defining a sidewall thickness therebetween and upper and lower edges, and a bottom wall formed along said lower edge of the sidewall, said sidewall being downwardly convergent and having a bulge made of said paperboard material projecting inwardly from said inner surface of the sidewall, and at least one bulge [made of said paperboard material] projecting outwardly from the outer surface of said sidewall, said thickness of the sidewall being greater at at least some locations along said bulges than at other locations on said sidewall, said at least one outwardly projecting bulge adapted to cooperate with the inwardly directed bulge of an underlying nested container to encourage aligned stacking of the containers wherein said container is press-formed from a single substantially flat blank, the blank being substantially comprised of a paperboard material.

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